

Mineral Water Co. at Toledo, Ohio, alleging shipment on or about July 2 and August 15, 1940, from the State of Ohio into the State of Indiana of quantities of Armi Mineral Water which was misbranded.

Analysis of a sample of the article showed that it contained only traces of, if any, potassium diphosphate, manganese chloride, magnesium phosphate, potassium chloride, calcium phosphate, sodium phosphate, potassium iodide, ferric phosphate, or lithium bromide, and not more than 0.15 grain of silicon dioxide per quart (an insignificant quantity present in many city water supplies), and substantial amounts of sodium sulfate and lime.

It was alleged in the information that the article was misbranded: (1) In that the statements on the jug label, "Minerals Added Potassium Diphosphate Manganese Chloride Calcium Hydroxide Magnesium Phosphate Potassium Chloride Calcium Phosphate Sodium Phosphate Potassium Iodide Silicon Dioxide Sodium Sulphate Ferric Phosphate Lithium Bromide" were false and misleading since they represented that it contained important and substantial proportions of each one of the said substances; whereas it contained but inconsequential and unimportant proportions of, if any, potassium diphosphate, manganese chloride, magnesium phosphate, potassium chloride, calcium phosphate, sodium phosphate, potassium iodide, ferric phosphate, and lithium bromide. (2) In that its label did not bear the common or usual name of each active ingredient since one of its active ingredients was slaked lime, which was described on the label as calcium hydroxide, which is not its common or usual name. (3) In that the statement of the ingredients was not borne on the label in such terms as to render it likely to be understood by the ordinary individual under customary conditions of purchase and use since the ordinary individual would not understand that the various ingredients listed in the labeling, with the exception of lime and sodium sulfate, were present, if at all, in unimportant and inconsequential proportions. (4) In that the labeling was misleading since the zigzag design depicting lightning and the statement "Treated By Electrolysis," failed to reveal the fact which is material in the light of the representations made and suggested by the design and statement, that any treatment by electrolysis to which the article may have been subjected had not affected its properties. (5) In that the statement on the label, "Scientifically Balanced," was false and misleading when applied to water to which had been added small amounts of lime and sodium sulfate and inconsequential amounts of other substances.

On April 2, 1942, the defendant filed a general demurrer to the information; and on June 5, 1942, the court sustained the demurrer and ordered the case dismissed.

778. Misbranding of double strength solution of posterior pituitary. U. S. v. 2 Bottles of Double Strength Solution of Posterior Pituitary. Default decree of condemnation and destruction. (F. D. C. No. 7568. Sample No. 89434-E.)

This product was represented to possess a potency double that of posterior pituitary as defined in the U. S. Pharmacopoeia and therefore should produce per cubic centimeter an activity corresponding to not less than 160 percent of that produced by 0.005 gram of the standard powdered posterior pituitary; whereas samples taken from the two lots produced per cc. an activity corresponding in one instance to not more than 120 percent and in the other to not more than 100 percent of the activity produced by 0.005 gram of the standard powdered posterior pituitary. It also was represented to contain 20 International Units of posterior pituitary per cc., but samples were found to contain not more than 12 and 10 International Units, respectively, of posterior pituitary per cc.

On June 1, 1942, the United States attorney for the Southern District of New York filed a libel against 2 bottles containing a total of approximately 1½ liters of the above-named product at New York, N. Y., alleging that it had been shipped in interstate commerce on or about September 12, 1941, by Armour & Co. from Chicago, Ill.; and charging that it was misbranded in that the statements on the label, "Double Strength Solution of Post. Pituitary U. S. P. XI" and "20 I. U. per cc.," were false and misleading since its strength was not double that of solution of posterior pituitary as defined in the U. S. Pharmacopoeia, and it did not contain 20 International Units per cc.

On June 26, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.